IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.140 OF 2004.

The State of Maharashtra ... Appellant.

V/s.

Bhagwan Dinkar Kshirsagar and Anr. ... Respondents.

Mr.S.V. Gajare, A.P.P.for the Appellant.
Mr.M.S. Mohite, for the Respondent No.1.

CORAM : A.S. OKA, J.
DATE : AUGUST 25, 2006.

P.C. :

1. Heard Advocates appearing for the parties on the prayer for grant of leave to prefer an Appeal against acquittal.

2. The learned Magistrate convicted the Respondents for offence punishable under Section 323 read with Section 34 of the Indian Penal Code. The Respondent No.1 was also convicted for offence punishable under Section 504 of the Indian Penal Code. In an Appeal preferred by the Respondents, the learned Additional Sessions Judge has set aside the order of conviction and has acquitted the Respondents.

3. After having heard the learned Advocates appearing for the parties, I find that no case is made out for grant of leave. The learned Additional Sessions Judge found that delay in lodging F.I.R. has not been explained by the prosecution. The learned Additional Sessions Judge held

that an inference can be drawn that because of delay, there was sufficient opportunity to concoct prosecution story. It appears that there was a civil dispute pending between the complainant and the accused persons. A finding has been recorded that the evidence of the complainant does not inspire confidence.

3. The view taken by the learned Additional Sessions Judge is a possible view which could have been taken on the basis of the material on record.

4. No case is made out for grant of leave. Appeal is dismissed.

JUDGE